

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISON

ALEXANDRA LOZANO IMMIGRATION §
LAW, PLLC, §
Plaintiff, §
v. § Civil Action No. 4:24-cv-02190
§
JUAN PABLO DIAZ CUENCA and §
MENESES LAW, PLLC §
§
Defendants. §

MENESES LAW, PLLC'S AMENDED ANSWER¹ AND COUNTERCLAIM

Defendant Meneses Law, PLLC ("Meneses Law"), by and through counsel, files this Amended Answer and Counterclaim to Plaintiff Alexandra Lozano Immigration Law, PLLC's Original Verified Petition and Application for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Request for Expedited Discovery (the "Complaint"). Except to the extent expressly admitted below, Meneses Law denies every allegation in the Complaint and all subparts, including without limitation, any allegations or assertions contained in the Complaint's headings and footnotes. Because the headings, footnotes, and exhibits in and attached to the Complaint are not allegations, Meneses Law does not respond to them. To the extent a response to the headings, footnotes, and exhibits is necessary, Meneses Law denies the allegations contained in any headings, footnotes, and exhibits.

INTRODUCTION

1. Denied.

¹ Meneses Law submits this answer subject to its concurrently filed Rule 12(b)(6) Motion to Dismiss (Dkt. 16) and in no way shall this answer be construed as a waiver of same.

2. Denied.
3. Meneses Law lacks knowledge and information sufficient to form a belief as to why ALIL filed the Complaint, therefore denied.

DISCOVERY-CONTROL PLAN

4. Denied. Discovery will be conducted under the Federal Rules of Civil Procedure.

PARTIES

5. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.
6. Admitted that Juan Pablo Diaz Cuenca is former employee of Meneses Law. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

7. Admitted.

JURISDICTION AND VENUE

8. Admitted that Plaintiff brought this claim in Harris County District Court pursuant to the Texas Rules. Denied that those rules, procedures, or jurisdictional limits apply in this Court.
9. Denied that Harris County District Court has jurisdiction over this matter. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.
10. Denied that Harris County District Court has jurisdiction over this matter. Admitted that Meneses Law is subject to personal jurisdiction in this Court.
11. Denied that Harris County District Court is the proper venue for this suit. Admitted that venue is proper in this Court.

FACTUAL BACKGROUND

12. Admitted that there are numerous competitors in the field of immigration law using similar, well-known techniques. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

13. Denied that anything about ALIL's approach to immigration law was "novel." Otherwise, Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

14. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

15. Denied.

16. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

17. Admitted that Alexandra Lozano filed for an application for the mark "ARREGLAR SIN SALIR!" with the U.S. Patent and Trademark Office, which was assigned Serial No. 97504788 and registered on or about April 11, 2023, but denied that such a common phrase is entitled to any trademark protection.

18. Denied that the alleged mark is strong or has any secondary meaning. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

19. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

20. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

21. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

22. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

23. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

24. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

25. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

26. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

27. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

28. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

29. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

30. Denied.

31. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

32. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

33. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

34. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

35. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

36. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

37. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

38. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

39. Admit that Diaz was employed with ALIL. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

40. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

41. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

42. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

43. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

44. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

45. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

46. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

47. Denied.

48. Admit that Meneses Law and ALIL compete for some types of business. Otherwise, denied.

49. Admitted that the image shown containing the common Spanish phrase “ARREGLA SIN SALIR DEL PAIS!”—different from “ARREGLAR SIN SALIR!”—depicts Meneses Law marketing material. Otherwise, denied.

50. Denied.

51. Admitted.

52. Admitted that Diaz was initially hired as a Customer Service Manager and was given the title of Senior Operations Manager within approximately three months. Otherwise, denied.

53. Admitted that Diaz was previously based in Houston. Otherwise, denied. Diaz is no longer employed at Meneses Law.

54. Admitted that some former employees of ALIL have been, from time to time, employed by Meneses Law. Otherwise, denied.

55. Meneses Law admits that it has hired employees who previously worked at ALIL. Otherwise, Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

56. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

57. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

58. Admitted that any such agreement speaks for itself. Otherwise, denied.

59. Admitted that any such agreement speaks for itself. Otherwise, denied.

60. Admitted that any such agreement speaks for itself. Otherwise, denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Admitted that the screenshot speaks for itself. Otherwise, denied.

66. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

67. Denied.

68. Admitted that Exhibit E speaks for itself. Otherwise, Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

69. Admitted that ALIL sent correspondence to Meneses law and that Exhibit F speaks for itself. Otherwise, denied.

70. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

71. Denied.

72. Denied.

CAUSES OF ACTION

Count I – Breach of Contract (Diaz)

73. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

74. This allegation is not made against Meneses Law and therefore no response is required. To the extent a response is required, denied.

75. This allegation is not made against Meneses Law and therefore no response is required. To the extent a response is required, denied.

76. This allegation is not made against Meneses Law and therefore no response is required. To the extent a response is required, denied.

77. This allegation is not made against Meneses Law and therefore no response is required. To the extent a response is required, denied.

78. This allegation is not made against Meneses Law and therefore no response is required. To the extent a response is required, denied.

Count II – Federal Misappropriation of Trade Secrets (All Defendants)

79. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

80. Denied.

81. Denied.

82. Denied in its entirety, including subparts (a)-(e).

83. Denied.

84. Denied.

85. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

86. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

Count III – Misappropriation of Trade Secrets (TUTSA) (All Defendants)

87. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

88. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

89. Denied.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

Count IV – Tortious Interference With A Contract (All Defendants)

98. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

99. Admitted that Plaintiff has attached a document purporting to be a contract with Diaz as Exhibit D. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

100. Denied.

101. Denied.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

Count V – Unfair Competition (All Defendants)

107. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

108. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

109. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

110. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

111. Denied.

112. Denied.

113. Denied.

Count VI – Misappropriation/Conversion of Confidential Information (All Defendants)

114. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

115. Meneses Law lacks knowledge and information about Diaz's conduct while at ALIL, therefore denied.

116. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, denied. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

117. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, denied. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations, therefore denied.

118. Denied.

Count VII – False Designation of Origin (Meneses Law)

119. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

120. Denied.

121. Denied that the common phrase is entitled to any trademark protection. Admitted that Meneses Law speaks to its clients and attracts clients using common Spanish phrases. Otherwise, denied.

122. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

123. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

124. Denied.

125. Denied.

126. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

127. Denied.

128. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

Count VIII – Application for Temporary Restraining Order and Injunctive Relief (All Defendants)

129. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

130. Denied.

131. Denied.

132. Denied.

133. Denied.

134. Denied.

135. Denied.

136. Denied.

137. Denied.

138. Denied.

Count IX – Punitive Damages (All Defendants)

139. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

140. Meneses Law lacks knowledge and information sufficient to form a belief as to the truth of these allegations, therefore denied.

141. Denied.

142. Denied.

Count X – Attorneys’ Fees (All Defendants)

143. Meneses Law incorporates its responses to the paragraphs above as if set forth herein.

144. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

REQUEST FOR TEMPORARY RESTRAINING ORDER

1. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

2. This is a conclusion of law to which no response is required. To the extent a response is required, denied.

3. Denied.

4. Denied.

REQUEST FOR EXPEDITED DISCOVERY

Plaintiff has not filed a request for expedited discovery in this Court or under the Federal Rules of Civil Procedure and, therefore, is not entitled to same. Meneses Law reserves the right to review and oppose any such expedited discovery sought in this Court. To the extent any further response is required, Meneses Law denies any allegations and opposes the requested discovery.

AFFIRMATIVE DEFENSES

1. ALIL has failed to state a claim(s) upon which relief can be granted.
2. ALIL’s claims are barred in whole or in part by the doctrine of unclean hands.
3. ALIL’s claims are barred in whole or in part by the doctrine of laches.
4. ALIL’s claims are barred in whole or in part by estoppel.

5. ALIL's claims are barred in whole or in part by the doctrine of waiver.
6. ALIL's claims are barred in whole or in part by the doctrine of fair use.
7. Meneses reserves the right to assert additional affirmative defenses that become known through further investigation and discovery.

COUNTERCLAIM

Meneses Law, by and through its attorneys, hereby asserts the following Counterclaims against Alexandra Lozano Immigration Law, PLLC ("ALIL") and alleges, on knowledge as to its own actions and otherwise upon information and belief, as follows:

1. This is a counterclaim under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking a declaration that Meneses Law's conduct does not infringe the alleged "ARREGLAR SIN SALIR!" trademark. Meneses Law further seeks a declaration that ALIL owned no rights in the alleged "ARREGLAR SIN SALIR!" trademark that would give ALIL any prior trademark rights.

PARTIES

2. ALIL has made an appearance in the case.
3. Meneses Law has made an appearance in this case.

JURISDICTION & VENUE

4. This Court has personal jurisdiction over ALIL because ALIL has submitted itself to the jurisdiction of Texas by bringing suit in Texas.
5. This Court has jurisdiction over this matter because the causes of action alleged herein arise out of the transactions and/or occurrences that are the subject matter of ALIL's claims. FED. R. CIV. P. 13(a). Further, this action arises under the trademark laws of the United States, 15

U.S.C. § 1051, *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a).

6. Venue is proper in this District because ALIL has voluntarily brought claims against Meneses Law in Harris County, and Meneses Law resides in this District. Venue is further proper because a substantial part of the events or omissions giving rise to ALIL's alleged claims occurred in this District. 28 U.S.C. § 1391.

FACTS

7. Meneses Law was founded in 2020 and offers legal services for work permits, residency, visas, and citizenship for immigrants in the United States. Meneses Law has been working with Spanish-speaking immigrants in the United States since its formation.

8. This common Spanish phrase "Arreglar Sin Salir," which ALIL claims to own the trademark rights to, is used ubiquitously throughout the practice of immigration law by immigration lawyers and firms around the country. Just a few examples are set forth below:



(Roach & Bishop; Pasco, Washington)

Asilo Y Proceso Consular

Hay personas que pueden arreglar sin salir de los Estados Unidos, y hay 4 maneras para poder hacerlo.

(Lincoln-Goldfinch Law; Austin, TX & Waco, TX)

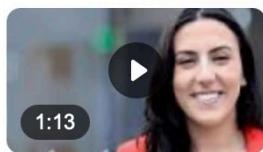


Facebook · Abogada Angel Lisinski

100+ reactions · 2 months ago

⋮

¿Quiere arreglar sin salir del país? Hay opciones que podrían ...



Quiere arreglar sin salir del país? Hay opciones que podrían ayudarle a obtener sus papeles, dentro de los Estados Unidos. ¡Llámenos!

(Lisinski Law; Houston, TX)



YouTube · Abogada de Inmigracion - Yohana Saucedo

1.4K+ views · 1 year ago

⋮

ARREGLAR PAPELES SIN SALIR DEL PAIS



35:33 · Go to channel. ES FRAUDE? FUNCIONA? - ARREGLAR SIN SALIR.

Abogado Luis Gomez Alfaro • 6.2K views · 28:38 · Go to channel. I-601a # 1...

(Yohana Saucedo; Austin, TX)



Arreglar sin salir de los
Estados Unidos

C.R. Wannamaker Law, PLLC

16 videos 118 views Last updated on Feb 9, 2024

(C.R. Wannamaker Law, PLLC; El Paso, TX)

9. Indeed, the phrase has widely been in use since before Meneses Law was even formed.

m.facebook.com › abogadaerikajurado › videos

Puedo arreglar sin tener que salir del pais? | Puedo arreglar ...



¡3 Delitos que debes evitar si quieres **arreglar** papeles! 2 days ago · 3.4K views ; ¿Cómo Obtener Residencia Permanente Si Tienes un Hijo... 2 ...

Facebook · Inmigración con la Abogada Erika Jurado · Apr 23, 2019

CAUSES OF ACTION

Count One: Declaratory Judgment of Lack of Secondary Meaning

10. Meneses Law repeats and realleges paragraphs 1 through 9 of this Counterclaim as if fully set forth herein.

11. As a result of the acts described above, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

12. Meneses Law is entitled to a declaratory judgment that the design, marketing, sale, and offering for sale of immigration legal services in the United States using the phrase “ARREGLAR SIN SALIR!” did not and does not infringe any valid federally registered trademark owned by ALIL or constitute unfair competition because such purported mark is not inherently distinctive and ALIL has not acquired secondary meaning in the mark as required to have enforceable trademark rights.

13. A judicial declaration is necessary and appropriate so that Meneses Law (and others in the immigration law field) may ascertain its rights to continue using the common Spanish phrase “arreglar sin salir” and any derivatives. Indeed, this controversy related to the lack of secondary meaning will continue even after Plaintiff’s infringement allegations are resolved. Pursuing this

controversy within this case avoids multiplicity of actions and ensures the question of a lack of secondary meaning will be decided even if Plaintiff terminates its claims.

14. Meneses Law is entitled to a declaratory judgment that ALIL has not established any secondary meaning for the term “ARREGLAR SIN SALIR!”

Count Two: Declaratory Judgment of Genericness

15. Meneses Law repeats and realleges paragraphs 1 through 14 of this Counterclaim as if fully set forth herein.

16. As a result of the acts described above, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

17. The phrase “ARREGLAR SIN SALIR!” are common phrases within the Spanish vernacular that is generic and not entitled to trademark protection.

18. A judicial declaration is necessary and appropriate so that Meneses Law (and others in the immigration law field) may ascertain its rights to continue using the generic Spanish phrase “arreglar sin salir” and any derivatives. Indeed, this controversy related to the genericness of the phrase will continue even after Plaintiff’s infringement allegations are resolved. Pursuing this controversy within this case avoids multiplicity of actions and ensures the question of genericness will be decided even if Plaintiff terminates its claims.

19. Because ALIL’s purported mark consists of a generic phrase, Meneses Law seeks and is entitled to a declaratory judgment that ALIL’s “ARREGLAR SIN SALIR!” trademark, Serial No. 97504788, is generic and, therefore, not protectable.

Count Three: Declaratory Judgment of Trademark Invalidity & Cancellation

20. Meneses Law repeats and realleges paragraphs 1 through 18 of this Counterclaim as if fully set forth herein.

21. As a result of the acts described above, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment that ALIL owns no valid trademark rights in the alleged “ARREGLAR SIN SALIR!” trademark, Serial No. 97504788.

22. A judicial declaration is necessary and appropriate so that Meneses Law may ascertain its rights to continue using the common Spanish phrase “arreglar sin salir” and any derivatives in connection with its legal services for immigration in the United States.

23. A judicial declaration is necessary and appropriate so that Meneses Law (and others in the immigration law field) may ascertain its rights to continue using the common Spanish phrase “arreglar sin salir” and any derivatives. Indeed, this controversy related to the validity of Plaintiff’s mark will continue even after Plaintiff’s infringement allegations are resolved. Pursuing this controversy within this case avoids multiplicity of actions and ensures the question of trademark invalidity will be decided even if Plaintiff terminates its claims.

24. Meneses Law is entitled to a declaratory judgment that ALIL owns no valid trademark rights in the alleged “ARREGLAR SIN SALIR!” trademark, Serial No. 97504788. Accordingly, Meneses Law therefore has not violated any rights relating to same and seeks the cancellation of Trademark Serial No. 97504788.

JURY DEMAND

25. Meneses Law demands a trial by jury on all issues so triable.²

PRAYER FOR RELIEF

Wherefore, Meneses Law requests judgment against ALIL as follows:

a. That ALIL take nothing by way of its Complaint and that the same be dismissed with prejudice;

² Meneses Law previously filed a separate jury demand on 8/19/2024 and is including such a request herein for completeness. *See* DKT No. 30.

- b. That the Court enters a judgment declaring that the “ARREGLAR SIN SALIR!” trademark, Serial No. 97504788, has no secondary meaning;
- c. That this Court enters a judgment declaring that the “ARREGLAR SIN SALIR!” trademark, Serial No. 97504788, is generic;
- d. That this Court enters a judgment declaring that “ARREGLAR SIN SALIR!” trademark, Serial No. 97504788, is invalid and cancelled;
- e. That all injunctive relief, damages, costs, expenses, attorneys’ fees, prejudgment and/or post-judgment interest, and other relief sought by ALIL be denied;
- f. That this case be declared exceptional pursuant to 15 U.S.C. § 1117(a) and attorneys’ fees and costs incurred in this action be awarded to Meneses Law; and
- g. Any further relief as this Court deems proper and just.

Dated: August 26, 2024

Respectfully submitted,

/s/ Jason S. McManis

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**ATTORNEY FOR DEFENDANT MENESSES
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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2024, a true and correct copy of the above and foregoing document was served on the following counsel of record via the ECF system:

/s/ Jason S. McManis
Jason S. McManis